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Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Senegal

Note by the secretariat

The Working Group undertook a visit to Senegal from 7 to 17 April 2015. The present report describes the situation as it relates to gender equality and the human rights of women in Senegal and analyses the progress made and the challenges to be overcome in this area. It explores the legal, institutional and policy frameworks geared to promoting equality. It examines the extent of women's participation and empowerment in economic, social, political, public, family and cultural life, as well as their access to health care. The Working Group makes recommendations for ways in which to eliminate discrimination and promote equality.

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I. Introduction

A. The visit

1. At the invitation of the Government, the Chair of the Working Group travelled to Senegal from 7 to 17 April 2015. She met with various actors in Dakar, Yeumbeul, Pikine, Kaolack, Diourbel, Fandène and Thiès. The Working Group wishes to thank the Government for its support in organizing the visit and its cooperation throughout the mission.

2. In Dakar, the Chair met with representatives of various ministries,[1] members of the National Assembly and representatives of the Economic, Social and Environmental Council, the National Observatory on Gender Parity, the National Observatory of Places of Deprivation of Liberty, the National Human Rights Committee and the Chamber of Commerce and Industry. In Kaolack, the Chair met with the deputy prefect, municipal counsellors and representatives of the legal advice centre (*maison de justice*). In Diourbel, she met with the governor, the head of the departmental service for community development, the deputy mayor and the official responsible for decentralized cooperation. In Thiès, she met with the deputy governor and representatives of the inspection service of the Ministry of Education. In Yeumbeul, she met with the mayor and representatives of the community counselling centre.

3. During the visit, the Chair of the Working Group also met with representatives of United Nations entities and civil society organizations and associations that promote the rights of women and girls. She visited a legal aid clinic (*boutique du droit*) in the Dakar medina[2] and a number of health centres and production units.[3] The Working Group wishes to thank the team of the Office of the United Nations High Commissioner for Human Rights (OHCHR) country office in Dakar for the invaluable support it provided before and during the visit.

B. Context

4. Senegal, which is engaged in a process of strengthening its democracy, has a poverty rate of 46.7 per cent and continues to register a low Human Development Index. The latter has declined in recent years: Senegal ranked 170th out of 188 countries in 2015 and 154th out of 186 in 2013.[4] Despite the Government's efforts and those of its technical and financial partners, the country is characterized by sharp inequalities, in particular with regard to gender. According to the United Nations Development Programme (UNDP),[5] the Gender Equality Index of Senegal ranks it 118th out of 188 countries. Geographic

[1] Ministère des affaires étrangères et des Sénégalais de l'extérieur, Ministère de la femme, de la famille et de l'enfance, Ministère de la santé et de l'action sociale, Ministère de l'intérieur et de la sécurité publique (Direction générale de l'administration territoriale et Directrice générale de la police nationale), Ministère de l'éducation nationale, Ministère de l'enseignement supérieur et de la recherche, Ministère de la formation professionnelle, de l'apprentissage et de l'artisanat, Ministère de la justice, Ministère de l'économie, des finances et du plan, Ministère du commerce, du secteur informel et de la consommation, et Ministère du renouveau urbain, de l'habitat et du cadre de vie.

[2] Tenue par l'Association de juristes sénégalaises.

[3] Associations de femmes rurales à Fandène.

[4] PNUD, Rapports mondiaux sur le développement humain 2015 et 2013.

[5] Ibid., 2015.

disparities are also pronounced, and the poverty rate in some regions reaches as high as 76.6 per cent.[6] Human development indices are 33 to 40 per cent lower in rural areas than in urban areas.[7] In spite of the progress made, the literacy rate (52.9 per cent) remains low and shows significant disparities along gender lines: only 43.3 per cent of women are literate, while the figure for men is 64.4 per cent.[8]

5. Most of the Millennium Development Goals have not been achieved. The recent assessment of the implementation of the Goals intended to benefit women and girls revealed that obstacles still remain, in particular with regard to eliminating poverty among women, reducing maternal and infant mortality, preventing the feminization of HIV/AIDS and other diseases, as well as mobilizing sufficient resources for achieving the Goals and the objectives of the Beijing Platform for Action.

6. Senegal cannot aspire to development without the genuine and full participation of women. The unequal assignment of roles and responsibilities within the family, the overall division of labour and the reduced economic power of women exacerbate the growing feminization of poverty. The Working Group observed that the many legal but predominantly sociocultural constraints impede the achievement of gender equality.

II. Legal, institutional and policy framework

A. Legal framework

International and regional levels

7. Senegal has ratified, without reservation, almost all the international and regional human rights instruments and has reaffirmed its commitment to giving effect to the Convention on the Elimination of All Forms of Discrimination against Women by ratifying the Optional Protocol to the Convention in 2000. The Working Group nonetheless regrets that Senegal did not submit its periodic reports to the Committee on the Elimination of Discrimination against Women between 1994 and 2013 and encourages it to do so now. Senegal is also a party to all the instruments of the African Union, including the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), which it ratified in 2004. Senegal has also ratified all the fundamental conventions of the International Labour Organization (ILO); however, it has not ratified ILO Equality of Treatment (Social Security) Convention, 1962 (No. 118), ILO Maternity Protection Convention, 2000 (No. 183) and ILO Domestic Workers Convention, 2011 (No. 189).[9]

1. Achievements

National level

8. The Working Group commends Senegal on the efforts it has made to strengthen its legal framework for the promotion and protection of women's rights and gender equality.

[6] Rapport périodique sur la mise en œuvre de la Charte africaine des droits de l'homme et des peuples, 2013 (:www.achpr.org/files/sessions/56th/state-reports/3rd-2004-2013/senegal_state_report_fr.pdf).

[7] PNUD, Rapport sur le développement humain 2010.

[8] Agence nationale de la statistique et de la démographie (ANSD), « Enquête à l'écoute du Sénégal 2014 » (www.ansd.sn/ressources/publications/Rapport%20L2S%20consolide-preliminaire.pdf).

[9] Pour les Conventions no 183 et no 189, des projets de ratification ont été adoptés en Conseil des Ministres et doivent être adoptés par l'Assemblée nationale.

The Constitution reiterates the country's commitment to the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women. Article 1 of the Constitution stipulates that: "The Republic of Senegal is a secular, democratic and socially committed State." The Constitution safeguards the right to equality before the law for all individuals, irrespective of origin, race, sex or religion, and sets forth the principle of equality between men and women (art. 7). It also recognizes the right to education for all, equal access to land tenure and ownership (art. 15), the right of women to equal treatment under the law in matters of employment, wages and taxation (art. 25) and, after the amendment of article 7 in November 2007, equal access to elected and political office. Pursuant to article 98, all international instruments have primacy over domestic laws. The Working Group also welcomes the progress that has been made in the way of legislation.

9. Act No. 91-22 provides for free compulsory primary education, and Act No. 2004-37 makes education compulsory between the ages of 6 and 16.

10. Act No. 97-17 on the Labour Code establishes the right to equal pay for men and women and to paid maternity leave (see articles 9, 15, 17, 18 and 24 of the Social Security Code).

11. Act No. 99-05, which provides for the amendment of certain provisions of the Criminal Code, has been a key factor in combating violence against women by making the assault of a female person an aggravating circumstance; by penalizing sexual harassment, domestic violence, female genital mutilation, rape, sexual abuse of minors, incest and procuring; and by making family abandonment an offence enforceable against both spouses, rather than against women only, as it had previously stipulated.

12. Under Outline Act No. 2004-16 on Agriculture, Forestry and Livestock, the State is required to guarantee gender equality in rural areas, especially with regard to farming. The Act calls for measures that facilitate access to land and credit for women.

13. The Working Group also welcomes the adoption of Act No. 2005-18 on Reproductive Health, which safeguards a woman's right to make decisions about her reproductive health.[10]

14. The decrees of 23 November 2006, which provide for the amendment of the regulations governing civil servants and non-civil servants and the organization of health insurance institutions, respectively, give female employees the option of extending their social benefits to cover their husband and children. Pursuant to Act No. 2008-01 on Equal Taxation, women are now allowed to provide for their spouse and children, which they were previously prohibited from doing.

15. Act No. 2010-11 on Parity, which instituted full gender parity in all partially or totally elected offices, represented a significant step forward and propelled Senegal to the top of the subregion in terms of women's representation in parliament.

16. Under Act No. 2013-05 on Nationality, which provides for the amendment of Act No. 61-10 of 1961, Senegalese women are authorized to transfer their nationality to their children and husband, thereby removing flagrant discrimination in this area.

2. Challenges

17. The Family Code remains one of the chief sources of discrimination against women in Senegal and contains many discriminatory provisions,[11] such as those relating to the

[10] Voir par. 55 à 57.
[11] Voir par. 39 à 42.

choice of the conjugal home, which is the exclusive prerogative of the husband (art. 153); the minimum age of marriage, which is set at 16 for girls and 18 for boys (art. 111);[12] the exercise of parental authority by the father as the head of the family (art. 277); the persistence of the husband's "marital authority" over his wife (art. 152); and inequality in respect of inheritance (art. 637).

18. Article 116 of the Family Code recognizes polygamy as an institution under ordinary law by providing that, in the absence of a preclusion at the time of marriage or subsequently thereafter, a husband may simultaneously have four wives.[13]

19. Underage marriage is penalized only under civil law and by annulling the marriage; no criminal penalties are prescribed, except in the case in which a man enters into a marriage with a child under the age of 13 (article 300 of the Criminal Code).

20. Although the Social Security Code makes no distinction between men and women, article 21 on family allowances provides that allowances are to be granted to workers for each of their dependent children. In the case of a married couple, since the father is the sole holder of parental authority, he is the only one entitled to receive allowances (the amendment of article 277 of the Family Code could remedy this discriminatory rule).

21. General Order No. 54-52 of 1954 prohibits women from working at night in factories, mines, quarries, construction sites or workshops. Women may not, under any circumstances, work at outdoor store displays after 10 p.m. Although these provisions were originally intended to be protective in nature, they are nonetheless discriminatory. The Working Group laments the fact that there is no law that requires equal pay for equal work or a specific law on non-discrimination.[14]

22. The Working Group is concerned that existing legislation on violence does not cover marital rape, psychological violence or economic abuse and fails to provide for the imposition of protection orders against a violent husband, which would require his removal from the home, or for the establishment of a court specialized in cases of domestic violence. While Act No. 99-05 represents a significant step forward, there is still no comprehensive law on the prevention or elimination of gender-based violence that contains express provisions on prevention, better protection to women survivors of such violence, medical and psychosocial support for victims, the establishment of rehabilitation and economic empowerment projects or the punishment of the perpetrators of such violence. The existing legislation also fails to cover sexual harassment in schools and public places and considers rape to be an ordinary rather than serious offence (art. 320).

23. The Working Group is concerned at the fact that voluntary termination of pregnancy is prohibited under both the Criminal Code[15] and Act No. 2005-18 on Reproductive Health (art. 15) and carries a penalty of up to 5 years' imprisonment. Women may request a therapeutic abortion only if their life is at risk, and it is impossible for most women, especially those in rural areas, to meet the requirements set forth in the code of ethics, according to which three doctors must provide their opinion in assessing that risk.[16]

24. Although Senegal has pledged at both the international and regional levels to ensure full respect for women's rights, the incorporation into domestic law and enforcement of the

[12] Dans l'avant-projet de code de l'enfant, l'âge du mariage est fixé à 18 ans pour les filles et les garçons.

[13] Voir par. 42.

[14] Banque mondiale, *Women, Business and the Law 2016*. (http://wbl.worldbank.org/~/media/WBG/WBL/Documents/Reports/2016/Women-Business-and-the-Law-2016.pdf).

[15] Art. 305 et 305 *bis* hérités de l'époque coloniale.

[16] Voir par. 71 et 72.

instruments to which it is a party remain inadequate. The provisions of the new Constitution of 2001 that promote gender equality have yet to be implemented in practice.

B. Access to justice

25. Access to justice remains a major impediment to the full realization of women's rights. Most of the actors met with stressed the considerable difficulties that women face in seeking to access justice. Some senior officials even described it as an obstacle course. According to most of the actors, women are very distrustful, not only of the justice system but also of the police and the gendarmerie, despite the fact that some progress has been observed. Police officers admitted that there was a need to improve the treatment of women victims of violence in police and gendarmerie stations and to change the face of policing by recruiting more women.[17]

26. The Working Group observed that human rights training for justice officials, in particular in relation to women's rights, was neither standardized nor systematic. The Working Group underscores the need to properly train all relevant actors, starting with their basic training, and to further their knowledge by means of in-service training.

27. During the visit, the Working Group observed that access to justice is particularly problematic for women victims of violence. The fear of stigmatization and reprisals, the cost of proceedings, rural isolation, the difficulty of gathering the necessary evidence, the scarcity of women in the police force and the prevalence of inadequately trained staff members are all factors that prevent women from filing a complaint. When they do file a complaint, investigations are not always initiated. It is furthermore inadmissible that women should have to pay to obtain a medical certificate[18] in cases of sexual violence. When assailants are arrested and convicted, the dysfunctional nature of the justice system is such that offenders manage to get away without completing their sentences. The entire judicial system must come together to fight impunity. The Working Group welcomes the establishment of community counselling centres — a positive initiative that engages local communities in the prevention of violence — but is concerned by the tendency to resort to mediation in cases that should be referred to the criminal court.

28. Owing to serious shortcomings in the judicial system that persist despite efforts to provide access to justice at the local level through legal advice centres (*maisons de justice*), some associations have stepped in to offer free legal assistance to women as they complete the necessary formalities.[19] However, the Working Group regrets that associations cannot sue for damages in criminal proceedings and encourages the Government to adopt a provision in this regard as part of the reform of the Code of Criminal Procedure that was under way at the time of the visit.

29. The full realization of women's rights is significantly hampered by poor enforcement of existing legislation, sociocultural barriers and the lack of monitoring mechanisms to ensure that rights are respected. Lack of awareness of their rights is also a significant obstacle for women. The Working Group notes that there is a glaring need for the dissemination and popularization of laws, including in local languages.[20]

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[17] Selon les données partagées lors de la visite par la Direction générale de la police, il existe seulement 10 % de femmes dans le corps policier.

[18] De 5 000 à 10 000 francs CFA.

[19] Voir par. 85 ci-après.

[20] Le Groupe de travail salue en ce sens le lancement de la traduction de la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes dans les six langues nationales le 25 janvier 2016.

C. Institutional and policy framework

1. Institutional framework

30. As part of its efforts to promote and protect women's rights and gender equality, Senegal has developed a number of institutional mechanisms that are responsible for implementing policy in this area. The Working Group welcomes the various initiatives undertaken by the Ministry of Women, the Family and Children, which conducts the policy on the promotion and protection of women's rights and efforts to combat discrimination against women. However, some of the stakeholders spoken to pointed to a lack of leadership and coordination within the Ministry. Other ministries and entities, such as the Ministry of Health and Welfare, the Ministry of Education, the Ministry of Vocational Training and the Economic, Social and Environmental Council also play a fundamental role.

31. The National Observatory on Gender Parity,[21] which was established in 2011, demonstrates the State's determination to strengthen the institutional apparatus for the promotion of gender equality. Its mandate is to monitor, assess and formulate proposals on the promotion of gender parity in public policies. The Working Group was disappointed to learn that the meager budget allocated to the Observatory did not enable it to fulfil its mandate. The Working Group encourages Senegal to strengthen the National Human Rights Committee with a view to bringing it into line with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and strongly recommends the establishment within it of a subcommittee on women's rights.

32. The Working Group welcomes the establishment of gender units in the ministries but finds it regrettable that no specific additional budget has been allocated to them and that the civil servants working there have not all received the requisite training.

2. Policy implementation

33. The Working Group welcomes the measures taken by Senegal in key policy areas, such as education, training, health and social protection for vulnerable groups in order to tackle gender equality on various levels. These include the development of the Emerging Senegal Plan, the 2015 National Strategy on Gender Equality and the 2013-2017 National Strategy on Economic and Social Development. The Government has also supported the preparation of religious position papers that support gender equality.

34. For example, the general policy paper on the education and training sector for the period 2012-2025, through its Programme for the Improvement of Quality, Equity and Transparency, emphasizes the crucial importance of gender. A national project to increase the number of female teachers and researchers has been set up with the aim of improving girls' access to higher education and science programmes. In addition, programmes have been developed in the areas of literacy, vocational and technical training, girls' school enrolment and scholarships for girls specializing in scientific fields.[22] The 2013 National Child Protection Strategy also incorporates a gender perspective.

35. The participation of women in development policies has been one of the chief concerns of Senegal, as demonstrated by the many funds set up to this end: the Women's

[21] Autorité administrative indépendante, placée sous l'autorité du Président de la République, composée de représentants ministériels, parlementaires, politiques et de la société civile (http://onp.sn).

[22] Voir Ministère de l'éducation nationale, « Évaluation du Projet d'appui à l'éducation des filles (PAEF) », rapport final, avril 2013, et la « Situation nationale de l'éducation 2012 ».

Groups Support Fund for the purchase of equipment designed to lighten women's workload; the poverty reduction programme, which has allocated considerable funds to microcredit schemes benefiting primarily women; the National Fund for Women Entrepreneurs, which aims to curb the feminization of poverty and give renewed momentum to entrepreneurship through a progressive financing scheme and a new strategy on access to funding; and the National Credit Fund for Women, which finances projects for the most vulnerable groups of women.[23]

36. Major strides have been made in the health sector in recent years, including the introduction of universal health coverage, the preparation of the 2006-2015 multisectoral road map to speed up the reduction of maternal and neonatal mortality and morbidity, the development of health posts, the adoption of a law on HIV/AIDS, the geographical expansion of the capacity for performing caesarians, the programme on medical and financial support for women with obstetric fistula and many other initiatives launched by the Ministry of Health.[24]

37. The joint programme entitled "Eradication of Gender-based Violence and the Promotion of Human Rights" and the 2010-2015 National Action Plan to Hasten the End of the Practice of Excision exemplify the Government's commitment to fighting the scourge of gender-based violence. Other steps have been taken as well, such as the launch of a helpline (number 116) to receive reports and guide victims and the establishment of 15 counselling centres in 11 regions of the country.[25]

38. The Working Group observed that concerns regarding women's rights are not always taken into account in budgets at either the national or local level. The Working Group further observed that most of the actions undertaken are piecemeal, project oriented and often contingent upon donations from technical and financial partners, which does not systematically guarantee sustainable development for women. The Working Group notes that there are gaps in the formulation of effective strategies to coordinate and harmonize policies.[26]

III. Participation of women in family, cultural, economic, social, public and political life

A. Family and cultural life

39. As mentioned above (see para. 17), the Family Code is a source of serious discrimination against women that spreads to all aspects of their lives (work, education, health, safety, etc.) and prevents them from fully enjoying their rights. By establishing the husband's marital authority and assigning parental authority to fathers as the head of the family, the Code severely undermines women's prospects for development and empowerment, thereby affecting the joint management of the household and children. Prior

[23] Voir par. 51.

[24] Voir par. 64.

[25] Par ailleurs, selon les informations reçues, le Gouvernement encourage la participation des femmes au processus de négociation, de résolution et de maintien de la paix. Elles sont organisées en associations ou en réseau pour contribuer au processus de paix dans la partie sud du Sénégal à travers le programme de déminage de la Casamance naturelle et des activités de promotion de la paix. Diverses initiatives visent la réinsertion socioéconomique des femmes victimes de mines antipersonnel, le développement de programmes d'éducation aux risques causés par les mines et le soutien scolaire aux enfants des familles victimes.

[26] PNUD, Rapport mondial sur le développement humain 2005.

to recent legal reforms, only men could receive family allowances and provide for children. The fact that husbands are given the right to choose the conjugal home also poses a problem for wives, especially those who are salaried employees or are in polygamous marriages.

40. The Working Group is concerned that the Family Code sets the legal age of marriage at 16 for girls and 18 for boys. There is no criminal penalty for persons who allow an early marriage to be performed. The legal marriage age for girls should be raised to 18, and a new Criminal Code provision that penalizes early marriage should be adopted.

41. The issue of inheritance is problematic for Senegalese women on many levels. Under ordinary law, women are entitled to inherit on an equal basis with men, but the Islamic inheritance rules contained in article 637 of the Family Code entitle men to receive twice as much as women, which conflicts with the principle of equality enshrined in the Constitution.

42. In Senegal, 35.2 per cent[27] of registered marriages are polygamous[28] (see para. 18). Article 6 of the Maputo Protocol encourages monogamy as the preferred form of marriage.[29] The Working Group[30] shares the view of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child to the effect that "polygamy is contrary to the dignity of women and girls and infringes on their human rights and freedoms, including equality and protection within the family".[31] The impact of polygamy includes harm to the physical and mental health and social well-being of wives, material harm and deprivation, as well as emotional and material harm to children, often with serious consequences for their welfare. States parties to the Convention on the Elimination of All Forms of Discrimination against Women have explicit obligations to discourage and prohibit polygamy because it is contrary to the Convention.[32] The Committee on the Elimination of Discrimination against Women also contends that polygamy has significant ramifications for the economic well-being of women and their children.[33] Studies have shown that polygamy actually often results in increased poverty in the family, especially in rural areas.[34]

43. Many actors emphasized difficulties in relation to the issuance of civil status documents,[35] especially marriage, birth[36] and death certificates. Divorce applications are often problematic, owing to the lack of a marriage certificate in cases of unregistered customary marriages. The required documents (such as the husband's identity card) can be difficult to obtain for a woman, particularly if she has been repudiated. Although

[27] Un chiffre qui ne tient pas compte des grands nombres de mariages coutumiers non constatés.

[28] www.ansd.sn/.

[29] www.achpr.org/fr/instruments/women-protocol/#5.

[30] Dans son rapport soumis au Conseil des droits de l'homme en juin 2015, le Groupe de travail a appelé à « la non-reconnaissance des mariages discriminatoires à l'égard des femmes et/ou qui n'assurent pas l'égalité et la justice aux femmes, quel que soit le système juridique, la religion, la coutume ou la tradition. Il s'agit, entre autres, des mariages précoces et/ou forcés, des mariages temporaires et de la polygamie » (A/HRC/29/40, par. 26).

[31] Recommandation générale/observation générale conjointe n° 31 du Comité pour l'élimination de la discrimination à l'égard des femmes et n° 18 du Comité des droits de l'enfant sur les pratiques préjudiciables (CEDAW/C/GC/31-CRC/C/GC/18), par. 25.

[32] CEDAW/C/GC/31/CRC/C/GC/18, par. 28. Voir aussi observations finales du Comité pour l'élimination de la discrimination à l'égard des femmes de juillet 2015 (CEDAW/C/SEN/CO/3-7).

[33] CEDAW/C/GC/31/CRC/C/GC/18, par. 28.

[34] Ibid., par. 26.

[35] Le Groupe de travail note un avant-projet de loi sur la modernisation de l'état civil.

[36] Certains agents de l'administration exigent la présence du père, et ce, sans aucun fondement juridique.

repudiation is considered under the law as a grievous insult that may constitute grounds for divorce, it does not, however, constitute a criminal offence.

44. Despite efforts to raise public awareness of the importance of registering children at birth and the organization of hearings by mobile units in order to increase the number of late registrations, the number of children without birth certificates remains very high.[37] This can cause serious difficulties throughout children's lives, in particular with regard to education, given that they cannot sit exams without a birth certificate, even at the primary level.

Women and the media

45. Many of the actors met with denounced the negative role played by some media, which reproduce and perpetuate stereotypes that are degrading to women and confine them to their role as submissive wives, mothers and mistresses of the house and to the performance of household chores. Although women's presence in the media has grown, their image appears to have deteriorated. In addition, many of the persons spoken to criticized the fact that only an elite few, who are not representative of the majority of Senegalese women, are given an opportunity to express themselves. It would also appear that some media are the instigators of propaganda against the promotion of women's rights and gender equality. There were reports that the media joined a campaign to oppose a bill on therapeutic abortion in cases of rape and incest or when a woman's life is at risk.

46. The Working Group encourages Senegal to continue to systematically include gender modules in journalism training programmes in order to counter the persistence of a culture that devalues the image of women in the media. It also encourages Senegal to increase the participation of women in broadcasts that are of national interest.

47. The traditional roles assigned to girls and women in the family and the unequal distribution of tasks have an adverse effect on every aspect of a woman's life and limit women's socioeconomic prospects and opportunities for empowerment.

B. Economic and social life

48. According to a World Bank report on women, business and the law, Senegal continues to considerably limit the economic activity of women.[38] Societal expectations of the role of women, unequal access to credit and limited education opportunities undermine women's participation in gainful and sustainable economic activity. Most active women in Senegal work in the informal economy and agriculture. Women spend a significant amount of time on domestic tasks (90 per cent of household chores are carried out by women[39]), which results in low income, unstable and sometimes dangerous working conditions and unpaid employment. Businesses run by women are found mostly in the processing of farm and fish products. The Working Group observed that poor working conditions prevent women from deriving optimum profit from their activities because of inefficient means of production and transformation, as well as limited training.

[37] Pour 2005-2012, 65,9 % en milieu rural, 89,3 % en milieu urbain des naissances ont été enregistrées à l'état civil (www.unicef.org/french/infobycountry/senegal_statistics.html).

[38] Banque mondiale, *Women, Business and the Law 2016*. (http://wbl.worldbank.org/~/media/WBG/WBL/Documents/Reports/2016/Women-Business-and-the-Law-2016.pdf).

[39] *La Citoyenne*, revue de l'Association des juristes sénégalaises, janvier 2015.

49. Women's rate of participation in the active population was 67 per cent in 2015[40] and has not increased appreciably over the past decade, as in 2002, it was 65.7 per cent.[41] The Working Group welcomes the initiatives that have been taken to develop kindergartens and community childcare centres[42] as a means of facilitating the inclusion of women in active life. However, these preschool facilities fail to meet demand: only 223,000 out of 1.6 million children who have applied are accepted.[43] In rural areas, less than 1 per cent of children from ages 3 to 5 have access to kindergarten, as compared to 6 per cent in urban areas.[44] The system of early childhood care and education in Senegal has severe shortcomings and is characterized by inadequate, unequally distributed facilities, which does little to further the economic participation of women.

50. Although women contribute in a significant, often hidden, way to the country's economy, they still earn substantially less than men. The average gross national income for a woman in 2014 was 1,642 dollars, as compared to 2,717 dollars for a man.[45] Unemployment is almost twice as high among women as it is among men (16.7 per cent and 9.5 per cent, respectively).[46] Some 83 per cent[47] of active women work in the informal sector where they are not entitled to basic social services, such as social security and health insurance, despite the fact that they work long hours in unsanitary and often unsafe conditions.

51. The Working Group finds it regrettable that only 34 per cent of State-granted microcredit loans are awarded to women and that the amount of these loans is as much as 20 per cent less than those awarded to men, despite the fact that women are better at reimbursing their loans (15 per cent of women default on their loans, as compared to 24 per cent of men).[48] The Working Group observed that these loans do not, however, guarantee the sustainability of women's economic activities. It is concerned at the lack of much-needed follow-up to assess the real impact of empowerment programmes, which appear, at first glance, to be poorly coordinated and not to provide a satisfactory solution for lifting women permanently out of poverty. Women's inadequate technical and managerial training, their limited access to flourishing and profitable markets and the low level of spending on projects and programmes for the benefit of women (less than 2 per cent of the national budget) narrow the prospects for women's full participation in the country's economic development and for overcoming their poverty. It is vital to find solutions that offer better guidance to women and increase their earning potential over the long term. The Working Group also finds it regrettable that only 7 per cent of businesses registered with the Dakar Chamber of Commerce are headed by women.[49] The majority of the owners of small and medium-sized enterprises are men (81.1 per cent).[50]

52. The Working Group is particularly concerned that women have very limited and unequal access to land. Although the Constitution provides for equal access to land, less

[40] Banque mondiale, *Women, Business and the Law 2016*.

[41] « En bref, l'autonomisation économique des femmes au Sénégal », ONU Femmes, 2014, et OIT, *Tendances mondiales de l'emploi des femmes 2012*, p. 15.

[42] « Les cases des tout-petits », modèle de politique de prise en charge de la petite enfance, mis en place depuis 2002.

[43] Information fournie par le Ministère de l'éducation nationale lors de la visite.

[44] PAQUET, 2013.

[45] PNUD, Rapport mondial sur le développement humain 2014.

[46] www.ansd.sn/ressources/publications/Resume_Resultats_ENES-2015.pdf.

[47] Rapport du Conseil économique, social et environnemental, « Droits de la femme, acquis, enjeux et perspectives », 2014.

[48] Information fournie par le Ministère des finances, de l'économie et du plan.

[49] Information fournie par la Chambre de commerce de Dakar.

[50] ANSD, Enquête nationale sur les PME (ENPME 2013).

than 2 per cent of women have access to land as the result of purchase, less than 15 per cent hold assigned plots and only 25 per cent have access through inheritance. Yet women carry out 70 per cent of farming activities and are responsible for more than 80 per cent of agricultural production, especially of food crops.[51] They also face limited access to the means of production. Societal norms that encourage granting the status of head of the holding to men, women's limited mobility and their relatively low income result in de facto discrimination in terms of access to the products of cultivated lands, but also in terms of the control and use of those lands.[52] The Working Group welcomes the land reform that is currently under way and hopes that quotas will be introduced in order to ensure equal access to land.

53. During its visit, the Working Group was informed of cases of violations of the rights of women domestic workers, who are often the victims of exploitation and sexual violence and are largely illiterate and marginalized. They do not have access to basic social services, work in poor conditions and are paid far less than the minimum wage.

Education

54. Senegal has made significant progress in recent years in terms of access to primary and secondary education. The Working Group notes with satisfaction that the country has reached gender parity in access to primary education. The gross enrolment rate of girls rose from 62.3 per cent in 2000 to 99.8 per cent in 2012, as compared with 71.9 per cent in 2000 and 88.9 per cent in 2012 for boys.[53] The rate of completion of primary education among girls has also risen, having increased from 40.2 per cent in 2002 to 63.1 per cent in 2012.[54]

55. However, sharp geographical disparities remain. Girls in rural areas have fewer opportunities to access education and succeed academically than those in urban areas. The dropout rate is higher among girls. Domestic chores, sexual abuse in school and early pregnancy and marriage contribute to academic failure. Child labour among those under the age of 18, which is estimated to be 36.7 per cent (of whom 30.2 per cent are girls and 21 per cent are girls under 15), represents another impediment to education. The failure to enforce compulsory education for children between the ages of 6 and 16 is often compounded by a loss of class time resulting from teacher strikes.

56. Early marriage and pregnancy rob 9 per cent of girls between the ages of 7 and 14 of the opportunity to continue their studies. This rate is 13 per cent in rural areas, where the population is more attached to conservative values that lead to early marriage.[55] Despite the issuance of a circular prohibiting the expulsion of girls on the grounds of pregnancy, their education continues to be interrupted and some never return. Consequently, they are not only stigmatized, but their future prospects are also narrowed. In addition, girls are exposed to violence on their way to school, especially in rural areas. Reporting mechanisms should systematically be set up in schools for the purpose of detecting any violence or abuse.

57. The Working Group is concerned that girls do not progress to higher levels of education at the same rate as boys. In 2011, girls accounted for only 43.3 per cent of

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[51] *La Citoyenne*, revue de l'Association des juristes sénégalaises, janvier 2015.

[52] Aussi, les projets de financement de microentreprises rurales semblent avoir bénéficié davantage aux hommes (56 %). Les femmes représentent seulement 11,2 % du volume de crédit total accordé par la Caisse nationale de crédit agricole du Sénégal (CNCAS) en 2013.

[53] Rapport national sur la situation de l'éducation 2012, Ministère de l'éducation nationale.

[54] Banque de données de la Banque mondiale.

[55] *Rapport de synthèse de la deuxième enquête sénégalaise auprès des ménages* (ESAM-II), Ministère de l'économie, des finances, Direction de la prévision et de la statistique, juillet 2004, p. 73. Voir également le paragraphe 72 ci-après.

students at the secondary level.[56] Only 33 per cent of secondary school graduates who go on to higher education are women.[57] Moreover, women represent less than 5 per cent of all students in industrial, vocational and technical streams.[58]

C. Political and public life

58. Senegal has made considerable progress with regard to women's participation in political life. In 2012, for the first time in a presidential election, there were two women standing for election. The 2010 Act on Absolute Parity in Elected and Partially Elected Bodies (Parity Act) marked a historic turning point in efforts to promote women's political participation in Senegal. The country now ranks sixth in the world in terms of its number of women parliamentarians:[59] 64 of 150 deputies in Senegal are women, who account for 42.7 per cent of the National Assembly (compared to 21.3 per cent in 2007[60]). The Working Group welcomes the adoption in June 2015 of a law providing for the amendment of the rules of procedure of the National Assembly and ensuring parity within the latter's executive committee. The national rate of women's participation in local bodies has tripled from the previous to the current term, increasing from 15.9 per cent to 47.2 per cent, respectively. Senegal also has a woman First Vice-President of the National Assembly, a woman President of the Economic, Social and Environmental Council and a woman Director-General of the National Police.

59. However, the local elections held in 2014 showed that the political marginalization of women in Senegal continues to be a problem. Female candidates faced major opposition from several influential religious groups and political figures, but also from the general public, including women themselves. After the elections, it became apparent that there had not been full compliance with the Act by all bodies at the local level.[61] This resistance to compliance with the 2010 Parity Act shows that the Act has not been fully accepted and that considerable efforts are still needed to eliminate all forms of discrimination and negative stereotypes that are deeply rooted in Senegalese culture and hinder women's equal participation in decision-making bodies.

60. Accordingly, the Working Group welcomes the decisions of the Dakar Court of Appeal and the Supreme Court to declare null and void the election of the mayor and deputies of the municipalities of Keur Massar and Kaolack on grounds of non-compliance with the Parity Act, and it encourages the relevant authorities to implement these decisions as soon as possible. At the same time, it is concerned that a non-balanced list was approved during local elections in Touba and that no appeal was lodged against this decision.

61. Many stakeholders drew attention to problems in obtaining full compliance with parity in the departmental majority voting system and in elections for local executive committees (of municipalities and departments). Unfortunately, out of the 557 municipalities, only 13 currently had women mayors,[62] and out of 42 departmental councils,

[56] Rapport national du Sénégal, Mise en œuvre de la Déclaration et du Programme d'Action de Beijing+20, avril 2014, p. 13.

[57] Information fournie par le Ministère de l'éducation nationale.

[58] Rapport national du Sénégal, Mise en œuvre de la Déclaration et du Programme d'Action de Beijing+20, p. 15.

[59] www.ipu.org/wmn-e/classif.htm.

[60] La Parité, Mécanisme d'inclusion et de participation égale des femmes et des hommes aux instances de prise de décision, HCDH, ONU Femmes, AJS, OSIWA, 2014.

[61] Voir par. 60 ci-dessous.

[62] En 2009 : 11,66 % de femmes élues locales, 10 maires sur 150 (soit 6,66 %) aucune femme présidente de Conseil régional sur 14, aucune femme présidente de communauté rurale sur 349.

only 2 were presided by women. Even at the executive level, this reluctance to place women in decision-making positions is evident: out of 34 ministers and deputy ministers, only 7 are women, and their areas of responsibility are those traditionally assigned to women, including social affairs, the family and women's affairs. If the secretaries of State are included, women account for less than 18 per cent of the members of the incumbent Government.

62. Women's representation in the judicial system also remains insufficient. In 2010, women accounted for only 17.29 per cent of judicial personnel.[63] There are no women among the five members of the Constitutional Council. However, the Working Group welcomes the fact that, of the four chambers comprising the Supreme Court, two are headed by women.

IV. Right to health and access to health care

A. General context

63. The Working Group observed that women's health in Senegal was primarily affected by: (a) poor sanitary conditions; (b) limited access to water, especially drinking water, giving rise to infectious and parasitic diseases; (c) lack of information and understanding of their rights and of their sexual and reproductive health, leading to first pregnancies at an early age and a high birth rate (an average of nearly five children per woman);[64] (d) a much higher prevalence of HIV/AIDS among women, even though the epidemic has been contained in recent years[65] (women account for 61 per cent of all infected adults, the national average is 0.5 per cent but rises to 18.5 per cent for women in prostitution); and (e) harmful customs and practices, such as female genital mutilation and early marriage.

64. The Working Group welcomes the introduction in 2013 of universal health coverage, which should lead to an improvement in the provision of health care to women, children and vulnerable persons. In addition, Senegal has made childbirth and caesarean section services widely available at no cost. However, the fact that the caesarean surgery itself is free of charge does little to ease the financial burden borne by families, who have to pay for prenatal care (medicines, medical consultations) and the "medical kit" used before and after a caesarean section. The Working Group also welcomes the efforts undertaken to prevent and control malaria through the National Health Development Plan (distribution of free insecticide-treated mosquito nets and free treatment for children and pregnant women).

65. The Working Group nevertheless is concerned at the meagre level of resources allocated to health (4.2 per cent of gross domestic product and decreasing, according to World Bank figures);[66] the frequent difficulties encountered in accessing health facilities; the lack of qualified staff and adequate materials and equipment in health facilities, especially in rural areas; the persistently high cost of services; the limited availability of good quality emergency obstetric and neonatal care; and the fact that the sexual health of adolescents is scarcely taken into account in projects and programmes.

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[63] Rapport national du Sénégal, Mise en œuvre de la Déclaration et du Programme d'Action de Beijing+20, p. 38.

[64] www.ansd.sn/ressources/publications/6-%20fecondite%20sterilite.pdf.

[65] De 2,25 % en 2005 à 1,6 % en 2011.

[66] http://donnees.banquemondiale.org/indicateur/SH.XPD.TOTL.ZS.

Early marriage and pregnancy

66. Early marriage has a damaging effect on the health of girls (in addition to its negative impact on their schooling and future prospects).[67] The early marriage rate remains very high in Senegal: 40 per cent of women get married before the age of 18, whereas the age of first marriage for men is much higher. The proportion of women between the ages of 15 and 19 who are married is 23.8 per cent.[68] This rate is higher in rural areas and among the poorest members of the population. In polygamous marriages, there is a growing tendency for the age of the second, third and fourth wives to be younger than was previously the case. These early marriages usually result in early pregnancies, which girls might wish or need to terminate, especially for health reasons, but which they are currently prohibited from terminating. Sixteen per cent of girls between the ages of 15 and 19 already have one child. The rate of childbirth among adolescent girls in rural areas (25 per cent) tends to be much higher than those in urban areas (12 per cent), and this rate increases to 43 per cent in some regions of the country.[69]

67. As underscored by the World Health Organization (WHO), teenage pregnancy is extremely dangerous for girls' health. The risk of maternal mortality is four times higher among girls under the age of 16, and 65 per cent of women suffering from obstetric fistula developed it during an early pregnancy and are subject to the grave consequences it has on their life. Teenage pregnancy is also dangerous to the baby, increasing its mortality rate by 50 per cent, and, in addition, has a negative impact on the socioeconomic development of communities.[70] As many experts have pointed out, these early pregnancies may also be the result of an act of rape.[71]

B. Sexual and reproductive health and rights

68. Maternal mortality, which is a particularly telling indicator of the status of women, women's access to health care and the way in which the health-care system responds to their needs, remains very high. Every day in Senegal, five women die giving birth.[72] The maternal mortality rate is 392/100,000.[73] This is despite an increase in the rate of prenatal consultation (from 39.8 per cent in 2005 to 50 per cent in 2011) and an increase in the rate of deliveries attended by qualified health workers (from 51.9 per cent to 65.1 per cent).[74]

69. According to the information received, women often face barriers in terms of access to care during pregnancy, owing primarily to financial constraints or to problems in accessing health facilities. Despite efforts to establish health posts in rural areas, these are still too remote from certain communities and are frequently ill-equipped or ill-adapted to the needs of women (in terms of providing for traditional childbirth, for example). The Working Group welcomes the many prevention and awareness-raising programmes undertaken at the community level, such as those relating to the Badianou Gokh (community patroness/travelling midwife), who serves as a liaison between the community and the health centre or health post.

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[67] Voir par. 56.

[68] Enquête démographique et de santé (EDS) 2010-2011.

[69] Ibid.

[70] www.who.int/maternal_child_adolescent/topics/maternal/adolescent_pregnancy/en/.

[71] Voir par. 75 et 76.

[72] Campagne contre les mariages d'enfants et les pratiques néfastes, Ministère de la femme, de la famille et de l'enfance.

[73] EDS continue 2012-2013.

[74] Rapport national du Sénégal, Mise en œuvre de la Déclaration et du Programme d'Action de Beijing+20.

70. In recent years, the Senegalese authorities have increased contraceptive prevalence by means of a family planning programme. In 2014, 20 per cent of married women used some method of contraception.[75] The Act of 2005 on Reproductive Health has not yet led to a radical change in attitudes. All the health workers met with and many women admitted that they could not use contraceptives because their husband would not allow it.

71. The Working Group observed that the Senegalese abortion legislation was one of the most restrictive in Africa.[76] Article 14 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), which was ratified by Senegal in 2004, requires States parties to authorize therapeutic abortion to women and girls who become pregnant as a result of incest, rape or any other form of sexual assault, or where the mental or physical health of the pregnant woman or girl is endangered or where there is a risk to the life of the pregnant woman or girl or the baby. More than 10 years after the ratification of the Maputo Protocol, Senegal still has not harmonized its Criminal Code with the provisions of that instrument. International human rights law recognizes that the enjoyment of the highest attainable standard of health, including reproductive health, is a fundamental right.[77]

72. Some of the actors met with underscored that this extremely restrictive legislation disproportionately penalizes women from disadvantaged socioeconomic backgrounds (a large majority of women) who cannot afford to pay for a therapeutic abortion in a private clinic, which only a very small minority of persons can do. Approximately 8 to 13 per cent of maternal deaths in Senegal are caused by clandestine abortions.[78] The Working Group strongly supports the Criminal Code reform that is under way to extend therapeutic abortion to include cases of rape and incest. However, even this reform proposal is limited in that it does not take into account risks to the mother's mental health or cases of serious malformation of the fetus or a non-viable fetus. In its concluding observations of July 2015, the Committee on the Elimination of Discrimination against Women recommended that Senegal should legalize abortion and ensure that it is legally authorized in cases where the life or health of the pregnant woman is at stake, and in cases of rape, incest or severe fetal malformation.[79] The Working Group supports this recommendation and considers that, in view of the high prevalence of sexual violence and the severe threats it poses to girls' health, abortion should also be systematically permitted for girls under the age of 16.

V. Violence against women

73. All stakeholders met with during the visit expressed alarm at the high prevalence of all forms of violence against women, which was committed in a context of structural

[75] EDS continue, 2014.

[76] Voir par. 23.

[77] La Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes consacre le droit pour la femme d'avoir une maîtrise de sa fécondité. Le Comité pour l'élimination de la discrimination à l'égard des femmes a fortement désapprouvé les lois qui restreignent l'interruption volontaire de grossesse (IVG), en particulier celles qui l'interdisent et l'incriminent dans toutes les circonstances. Il a confirmé que ces législations n'empêchent pas les femmes de recourir à des IVG illégales et risquées et a qualifié les lois restrictives sur l'IVG de violation des droits à la vie, à la santé et à l'information. Différents comités et procédures spéciales ont exprimé des préoccupations similaires.

[78] Fadel Diadhiou, E.O. Faye et al., *Mortalité et morbidité liées aux avortements provoqués clandestins dans quatre sites de référence dakarois au Sénégal*, Clinique gynécologique et obstétricale du CHU le Dantec, Dakar, 1995.

[79] CEDAW/C/SEN/CO/3-7, par. 31 *c*.

inequality based on conservative patriarchal attitudes and values. Some condemned violence against women and girls as one of the foremost social problems of Senegal, taking the form of domestic violence, abuse, exploitation, sexual violence, female genital mutilation and forced marriage. Moreover, they all deplored the severe shortage of statistics and disaggregated data on this issue and stressed the alarming number of cases of rape, incest, sexual harassment and domestic violence (verbal, psychological, physical and sexual), unanimously recognizing that violence against women is a serious and widespread problem that requires urgent action at all levels.

74. The Committee on Eliminating Violence against Women and Children reported that the vast majority of these acts of violence take place in the family context. All actors involved in efforts to stop such violence pointed to the severe lack of shelters for women and girl victims of domestic violence. At the same time, the real magnitude of these phenomena is difficult to gauge, owing to underreporting and recourse to amicable settlements. The maintenance of family unity often prevails at the expense of respect for women's rights.

A. Sexual abuse of girls

75. The Working Group expresses its profound concern at the level of sexual violence to which girls are subjected, particularly at school, which is often followed by early pregnancy. The Working Group considers it intolerable that at school, which is supposed to be an educational and protective environment, girls are being sexually abused, and often by their teachers.

76. According to statistics collected by the observatories for child abuse and child sexual abuse, more than half of all girls who are raped and become pregnant thereafter are between the ages of 11 and 15. These girls often drop out of school and are subject to complete social exclusion and are confined to the home environment. Pregnancy ends the girl's life as a child. According to the information received, aggressors are often a relative or someone close to the family.

77. The Working Group finds it regrettable that only a small number of convictions are handed down for sexual abuse and that proceedings involving minors are not held in camera, which reinforces the stigmatization of girl victims and increases their chances of revictimization and exclusion. Many respondents expressed doubts about the transparency of proceedings and criticized the fact that victims were not systematically provided access to qualified legal counsel.

B. Female genital mutilation

78. Putting an end to female genital mutilation has, in recent years, been a priority objective of the Government's policy on protecting women's human rights and combating gender-based violence. Despite efforts undertaken at the legal, institutional and political levels, and a slight decrease in the prevalence of the practice, the Working Group was alarmed to observe that 25 per cent of women aged 15 to 49 reported having been a victim of excision — a rate that rose to as much as 92 per cent in some localities.[80] Thirteen per cent of girls under the age of 15 have been excised.[81] Eleven per cent of girls who are currently between the ages of 0 and 4 years, and nearly twice as many of those between the

[80] Demographic and Health Survey of Gabon 2010-2011.
[81] EDS continue 2014.

ages of 5 and 9 (21 per cent) have been excised. Twenty-five per cent of girls currently between the ages of 10 and 14 have been excised.[82]

79. Despite the adoption of a law prohibiting excision in 1999 and many prevention campaigns, all the actors consulted said that the practice persists, especially in the most remote areas. It seems that some opinion leaders and marabouts have been pushing for the continuation of excision. Drastic measures must be taken and no effort spared to eradicate this abhorrent form of violence that has serious and irreversible psychological and physical consequences for girls and women and that can even result in death following the procedure itself or during childbirth. It is vital to encourage women to report this practice and to punish severely those responsible for it, even if the mutilation was carried out abroad. Since the Act was adopted, which was more than 15 years ago, only nine complaints have been registered.[83] The penalty has a deterrent effect and represents one of the best tools for prevention. No belief or custom may be invoked or misinterpreted as justification for violating the rights of women and girls or for torturing or oppressing them.

80. Many activities involving local communities and religious and opinion leaders have been undertaken to combat this form of violence, in particular by civil society organizations and technical and financial partners working in conjunction with the Government. Nevertheless, the Working Group notes with concern that there is no overarching policy and specific budget item for countering gender-based violence. The legal measures and the programmes adopted by the Government to combat this scourge have thus far produced a fragmented response. Moreover, the lack of reliable statistical data on acts of violence and the factors associated with them hinders the development, implementation and evaluation of effective strategies to combat violence against women.

81. It is also vital to strengthen the system of prevention and elimination of violence against women by providing shelters where victims of violence can receive support and accommodation. The predominance of amicable settlements between families, the difficulties experienced by women and girls, especially in rural areas, with obtaining access to judicial and legal services, as well as insufficient knowledge on the part of law enforcement officials about laws and regulations prohibiting these forms of violence undermine efforts to combat them.[84]

C. Women victims of multiple forms of discrimination

82. The situation of women who are deprived of their liberty is also of concern to the Working Group. Although women account for only 4 per cent of the prison population, their number continues to grow. The main causes of incarceration of women are drug trafficking (31 per cent) and infanticide (16 per cent).[85] Three per cent of women were in prison as a result of an abortion and 1 per cent for involvement in prostitution.[86] Prison conditions are characterized by dilapidated and cramped facilities, lack of separate cells for women in some prisons and the absence of conjugal visits. Women are doubly stigmatized

[82] Ibid.

[83] Information fournie par le Ministère de la femme, de la famille et de l'enfance.

[84] Voir par. 27.

[85] Le crime d'infanticide est souvent la conséquence de situations de discrimination ou de violence préexistantes, notamment de grossesses issues de violences sexuelles.

[86] La prostitution, qui est légale au Sénégal, devient un délit passible d'emprisonnement dès lors qu'une travailleuse du sexe/femme en situation de prostitution n'est pas détentrice d'un carnet de santé ou n'est pas enregistrée au registre administratif. The implementation of this measure leads to a situation in which women exclusively are incriminated.

and even run the risk of losing custody of their child.[87] The Working Group was informed that the conditions of detention of pregnant women and women with small children are not in conformity with the relevant international standards.[88] The Working Group encourages alternative sentences for women,[89] in particular pregnant women and/or mothers of children under the age of 2. Lengthy pretrial detention must also be avoided.

83. The Working Group was also informed that lesbian women suffer from considerable violence, stigmatization and exclusion, even within civil society organizations involved in the promotion of gender equality, and do not at all feel supported in their struggle.

84. Women with disabilities are also in an extremely vulnerable situation and are the victims of multiple forms of discrimination owing to their social exclusion and to their limited access to education, employment, health services, public places (such as markets) and public facilities and buildings.

VI. Best practices

85. The Working Group welcomes the extensive actions undertaken to promote and protect women's rights by legal aid clinics (*boutiques du droit*), whose work is geared towards improving access to legal services for survivors of violence. Their purpose is to promote and popularize human rights, contribute to their protection, in particular for women and children, and provide support, assistance, advice and training to the general public. The legal aid clinics provide free legal support and advice. They sometimes cover fees for medical and psychosocial treatment, as well as lawyers' fees, where necessary. In addition, a free hotline was set up for women who cannot come in person to the clinics. This assistance is provided through the work of volunteer lawyers and paralegals with training in violence prevention and victim assistance. The Working Group encourages the Government to ensure the sustainability of these organizations and to avoid a situation in which their operations become dependent on donations from technical and financial partners.

VII. Conclusions and recommendations

A. Conclusions

86. **Despite the significant progress Senegal has made in terms of its legislation and the many policies it has developed for the promotion of women's rights and gender equality, Senegal must redouble its efforts to ensure that effect is given to women's rights. The rule of law must be strengthened through the promotion of a culture of respect for the rights of women and girls.**

87. **In order to accomplish this, Senegal must bring its legislation into line with international legal instruments on women's human rights and fiercely combat cultural resistance to women's full enjoyment of their rights. The Senegalese Constitution provides for the establishment of a secular Republic that cannot allow harmful**

[87] Rapport du CESE 2014.

[88] Règles des Nations Unies concernant le traitement des détenues et l'imposition de mesures non privatives de liberté aux délinquantes (Règles de Bangkok), résolution 65/229 de l'Assemblée générale, en date du 21 décembre 2010.

[89] Causes, conditions et conséquences de l'incarcération des femmes, rapport de la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences (A/68/340), par. 85.

cultural considerations to take precedence over the rules of international law regarding women's human rights or to hold sway over the effective implementation of laws and the formulation of policy.

88. As indicated by the special procedures and human rights treaty bodies, freedom of religion may not be used to justify discrimination against women. It is intolerable that, under the pretext of tradition, custom or even poverty, girls and women are denied their fundamental human rights, and are attacked, abused and subjected to indecency.

89. Women's empowerment is central to their advancement. In order to break the chains of silence and inequality, Senegalese women must have access to quality education and complete it. They must be properly trained and informed, have access to income-generating activities that ensure sustainable economic development and be able to rely on a system of justice that is accessible to all without distinction. The suppression of corruption and impunity is a key factor in obtaining access to effective justice.

90. The coordination framework for all stakeholders involved in the promotion of women's rights must be strengthened and must be conducive to the effective implementation of all policies and programmes.

B. Recommendations

91. With regard to the legal framework, the Working Group recommends that the Government:

(a) Ratify International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) and the Maternity Protection Convention, 2000 (No. 183);

(b) Amend the Family Code in order to eliminate, in law and in practice, all forms of discrimination in the family, including forms of marriage that limit or deny the rights, well-being and dignity of women and girls [early marriage (art. 111) and/or forced marriage, and polygamous marriage (art. 116)], the choice of the conjugal home, which is the sole prerogative of the husband (art. 153), the exercise of parental authority by the father (art. 277), the persistence of the husband's "marital authority" over his wife (art. 152) and inequality in respect of inheritance (art. 637);

(c) Raise the legal age of marriage for women to 18 and include a new provision in the Criminal Code that penalizes early marriage;

(d) Adopt land reforms that introduce quotas in order to ensure equal access to land;

(e) Legalize abortion, as provided for in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and extend it to include girls under the age of 16, in view of the severe risks pregnancy poses to their health;

(f) Adopt comprehensive legislation that prohibits any form of gender-based violence;

(g) Completely abolish the penalization of women who are involved in prostitution;

(h) Reform the Code of Criminal Procedure in order to allow associations to sue for damages in civil proceedings;

(i) **Ensure the effective implementation of the existing legal framework for the protection of women's rights and gender equality.**

92. **At the institutional level, the Working Group recommends that the Government:**

(a) **Strengthen the leadership of the Ministry of Women, the Family and Children;**

(b) **Strengthen the National Observatory on Gender Parity, and assign it an adequate budget;**

(c) **Strengthen the Senegalese Human Rights Committee with a view to bringing it into line with the Paris Principles, and set up within it a subcommission on the rights of women;**

(d) **Assign specific budgets to gender units attached to ministries that have staff working to incorporate gender into policy implementation and ensure that gender-sensitive budgets are developed on a systematic basis.**

93. **In the area of access to justice, the Working Group recommends that the Government:**

(a) **Provide proper training to all judicial personnel beginning with their initial training, and complement it with in-service training at regular intervals throughout their career;**

(b) **Mobilize the entire judicial system to combat impunity;**

(c) **Disseminate information on and raise awareness of the rights of women and girls among all segments of the population through the involvement of the media, men and boys, as well as community and religious leaders;**

(d) **Recruit more women officers in police stations and gendarmeries in order to handle the cases of girls and women who have been subjected to violence;**

(e) **Establish centres that offer a combination of all necessary services for victims of violence, such as medical, legal and psychosocial assistance, including at the local level;**

(f) **Establish reporting mechanisms in schools in order to detect any violence or abuse;**

(g) **Provide free medical certificates in cases of sexual violence;**

(h) **Facilitate as far as possible the public's efforts to obtain civil registry documents (birth and marriage certificates), and properly train officials of the relevant administrative offices;**

(i) **Strengthen efforts to promote community-based justice mechanisms and to ensure that these mechanisms are not used for reaching amicable settlements in cases of violence;**

(j) **Ensure that perpetrators of gender-based violence are prosecuted and convicted, including those responsible for female genital mutilation.**

94. **With regard to policy implementation, the Working Group recommends that the Government:**

(a) **Strengthen the promotion of protective social norms, especially at the community level;**

(b) **Include women's human rights and gender equality in school curricula, beginning at the level of primary education;**

(c) **Increase men's awareness of their shared responsibility for the upbringing of children and for dependent parents, as well as a more equitable sharing of domestic chores;**

(d) **Introduce temporary special measures, such as quotas, in order to address the problem of discrimination against women in employment, not only in elected positions, but also in the civil service (including at high levels of public administration, such as prefect or governor) and in private companies, in order to ensure that Senegalese women have that same opportunities as men;**

(e) **Ensure that women living in poverty, especially those in rural areas, have increasingly egalitarian access to resources and credit and are provided with capacity-building;**

(f) **Adopt urgent measures to ensure decent work for all female workers, particularly domestic workers and rural women;**

(g) **Develop studies at the national and local scales with the aim of collecting detailed and disaggregated data on all forms of gender-based violence;**

(h) **Increase the presence of women in the judicial system, including in the highest judicial bodies;**

(i) **Take all necessary measures to ensure girls' access to all types and levels of education and training, as well as to ensure their retention and performance, and strenuously combat the causes of dropout from school on the part of girls;**

(j) **Strengthen all actions and budgets related to family planning and provide entirely cost-free access to modern contraceptive methods, in particular with a view to preventing early pregnancy, and develop special protocols for adolescents;**

(k) **Pursue efforts to combat the feminization of HIV/AIDS, in particular for groups of women with a high prevalence rate, and ensure that women in prostitution systematically have access to a system of free prevention and treatment;**

(l) **To the extent possible, formulate alternative penalties for women, especially pregnant women and/or mothers of children under 2 years of age, and avoid lengthy pretrial detention, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules);**

(m) **Systematically incorporate training modules on gender equality in journalism training programmes and implement monitoring mechanisms intended to ensure the equal participation of women in the media and the promotion and protection of their rights by all means of communication.**

95. **The Special Rapporteur recommends that the country's technical and financial partners:**

(a) **Ensure the effective harmonization of the framework of cooperation with a view to avoiding the fragmentation of actions and project approaches that do not ensure programme sustainability or sustainable development for women;**

(b) **Strengthen and support the women's social movement, which is confronted with highly organized conservative forces;**

(c) **Ensure the systematic monitoring of aid programmes to assess their genuine impact and the presentation of transparent accounts.**